

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.55097 of 2017

=====

Mantu Kumar Son of Sri Babulal Sah, Resident of Village- Nonia Toli
(Purani Chowk), Ward No. 20, P.S.- Nagar Thana, P.O.- Gopalganj,
District- Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Binay Kumar Singh

For the Opposite Party/s : Mr. Sri Murlidhar

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

5 02-02-2018

Heard learned counsel for the petitioner and learned

Additional Public Prosecutor for the State.

The petitioner apprehends arrest in connection with
Complaint Case No. 59 of 2017 registered for the offence under section
406 of the Indian Penal Code and section 138 of the N.I. Act.

It has been submitted that the petitioner and the
complainant are businessmen dealing in business of utensils. They had
good relation among them and the petitioner in course of business used
to take utensils from the complainant and pay the price after selling the
goods. The petitioner in course of business had given blank cheques to
the complainant by way of security for the satisfaction of the
complainant which he used with ulterior motive after filling the said
cheques presented in bank for clearance but on account of insufficient
fund it was dishonoured. The petitioner has already returned the amount



of Rs.2,03,340/- in different installments in course of business out of Rs.5,00,000/- The petitioner has annexed the copy of Account book of showing payment to the complainant on different occasions.

The learned counsel for the opposite party submits that the papers showing payment in different installments relate to business transaction and so the said papers cannot exonerate the petitioner from making payment of amount which he had taken from the complainant. Today a counter affidavit has been filed by the complainant. The opposite party in his counter affidavit has admitted that the petitioner and the complainant were indulged in business of utensils. The learned counsel for the petitioner referred Annexure-C and D to the counter affidavit in order to show that the cheque bearing no. 000032 was allegedly issued on 10.12.2016 whereas the subsequent cheque no. 000033 was issued much earlier to the cheque no. 000032. The subsequent cheque bearing no. 000032 appears dated 25.08.2016. These two cheques are enough to show that the same were handed over to the complainant as security. In course of submission, the learned counsel for the petitioner further submits that the petitioner is ready to pay the admitted dues amount to the complainant in different installments after due accounting.

Considering the facts and circumstance, as stated above, the prayer for bail is allowed in view of undertaking given by the learned counsel for the petitioner that the petitioner will pay admitted amount to the complainant in different installments. The above named



petitioner in the event of arrest or surrender before the learned court below within six weeks from today, is directed to be released on bail on furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-XVI, Gopalganj in connection with Complaint Case No. 59 of 2017, subject to conditions as laid down under section 438(2) Cr.P.C. with further conditions: (1) one of the bailors of the petitioner shall be local person having sufficient immovable property within the jurisdiction of the concerned Court, (2) the petitioner will not induce any witness or tamper with the evidence.

(Sanjay Kumar, J)

Mahesh/-

U		T	
---	--	---	--

